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106TH CONGRESS
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H. R. 4444

[Report No. 106-632]

To authorize extension of nondiscriminatory treatment (normal trade relations treatment) to the People's Republic of China.

IN THE HOUSE OF REPRESENTATIVES

MAY 15, 2000

Mr. ARCHER (for himself, Mr. CRANE, Mr. MATSUI, and Mr. TANNER) (all by request) introduced the following bill; which was referred to the Committee on Ways and Means

MAY 22, 2000

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in italic]

[For text of introduced bill, see copy of bill as introduced on May 15, 2000]

A BILL

To authorize extension of nondiscriminatory treatment (normal trade relations treatment) to the People's Republic of China.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. TERMINATION OF APPLICATION OF CHAPTER 1**
2 **OF TITLE IV OF THE TRADE ACT OF 1974 TO**
3 **THE PEOPLE'S REPUBLIC OF CHINA.**

4 (a) *PRESIDENTIAL DETERMINATIONS AND EXTENSION*
5 *OF NONDISCRIMINATORY TREATMENT.*—Notwithstanding
6 any provision of chapter 1 of title IV of the Trade Act of
7 1974 (19 U.S.C. 2431 et seq.), as designated by section
8 3(a)(2) of this Act, the President may—

9 (1) *determine that such chapter should no longer*
10 *apply to the People's Republic of China; and*

11 (2) *after making a determination under para-*
12 *graph (1) with respect to the People's Republic of*
13 *China, proclaim the extension of nondiscriminatory*
14 *treatment (normal trade relations treatment) to the*
15 *products of that country.*

16 (b) *ACCESSION OF THE PEOPLE'S REPUBLIC OF CHINA*
17 *TO THE WORLD TRADE ORGANIZATION.*—Prior to making
18 the determination provided for in subsection (a)(1) and
19 pursuant to the provisions of section 122 of the Uruguay
20 Round Agreements Act (19 U.S.C. 3532), the President
21 shall transmit a report to Congress certifying that the terms
22 and conditions for the accession of the People's Republic
23 of China to the World Trade Organization are at least
24 equivalent to those agreed between the United States and
25 the People's Republic of China on November 15, 1999.

1 **SEC. 2. EFFECTIVE DATE.**

2 (a) *EFFECTIVE DATE OF NONDISCRIMINATORY TREAT-*
 3 *MENT.—The extension of nondiscriminatory treatment pur-*
 4 *suant to section 1(a)(1) shall be effective no earlier than*
 5 *the effective date of the accession of the People’s Republic*
 6 *of China to the World Trade Organization.*

7 (b) *TERMINATION OF APPLICABILITY OF TITLE IV.—*
 8 *On and after the effective date under subsection (a) of the*
 9 *extension of nondiscriminatory treatment to the products*
 10 *of the People’s Republic of China, chapter 1 of title IV of*
 11 *the Trade Act of 1974 (as designated by section 3(a)(2) of*
 12 *this Act) shall cease to apply to that country.*

13 **SEC. 3. RELIEF FROM MARKET DISRUPTION.**

14 (a) *IN GENERAL.—Title IV of the Trade Act of 1974*
 15 *(19 U.S.C. 2431 et seq.) is amended—*

16 (1) *in the title heading, by striking “CUR-*
 17 ***RENTLY*”;**

18 (2) *by inserting before section 401 the following:*
 19 ***“CHAPTER 1—TRADE RELATIONS WITH CERTAIN***
 20 ***COUNTRIES*”;**

21 *and*

22 (3) *by adding at the end the following new chap-*
 23 *ter:*

1 **“CHAPTER 2—RELIEF FROM MARKET DISRUP-**
2 **TION TO INDUSTRIES AND DIVERSION OF**
3 **TRADE TO THE UNITED STATES MARKET**

4 **“SEC. 421. ACTION TO ADDRESS MARKET DISRUPTION.**

5 “(a) *PRESIDENTIAL ACTION.*—If a product of the Peo-
6 ple’s Republic of China is being imported into the United
7 States in such increased quantities or under such conditions
8 as to cause or threaten to cause market disruption to the
9 domestic producers of a like or directly competitive product,
10 the President shall, in accordance with the provisions of this
11 section, proclaim increased duties or other import restric-
12 tions with respect to such product, to the extent and for
13 such period as the President considers necessary to prevent
14 or remedy the market disruption.

15 “(b) *INITIATION OF AN INVESTIGATION.*—(1) Upon the
16 filing of a petition by an entity described in section 202(a)
17 of the Trade Act of 1974 (19 U.S.C. 2252(a)), upon the re-
18 quest of the President or the United States Trade Represent-
19 ative (in this subtitle referred to as the ‘Trade Representa-
20 tive’), upon resolution of either the Committee on Ways and
21 Means of the House of Representatives, or the Committee
22 on Finance of the Senate (in this subtitle referred to as the
23 ‘Committees’) or on its own motion, the United States
24 International Trade Commission (in this subtitle referred
25 to as the ‘Commission’) shall promptly make an investiga-
26 tion to determine whether products of the People’s Republic

1 *of China are being imported into the United States in such*
2 *increased quantities or under such conditions as to cause*
3 *or threaten to cause market disruption to the domestic pro-*
4 *ducers of like or directly competitive products.*

5 “(2) *The limitations on investigations set forth in sec-*
6 *tion 202(h)(1) of the Trade Act of 1974 (19 U.S.C.*
7 *2252(h)(1)) shall apply to investigations conducted under*
8 *this section.*

9 “(3) *The provisions of subsections (a)(8) and (i) of sec-*
10 *tion 202 of the Trade Act of 1974 (19 U.S.C. 2252(a)(8)*
11 *and (i)), relating to treatment of confidential business in-*
12 *formation, shall apply to investigations conducted under*
13 *this section.*

14 “(4) *Whenever a petition is filed, or a request or reso-*
15 *lution is received, under this subsection, the Commission*
16 *shall transmit a copy thereof to the President, the Trade*
17 *Representative, the Committee on Ways and Means of the*
18 *House of Representatives, and the Committee of Finance*
19 *of the Senate, except that in the case of confidential business*
20 *information, the copy may include only nonconfidential*
21 *summaries of such information.*

22 “(5) *The Commission shall publish notice of the com-*
23 *mencement of any proceeding under this subsection in the*
24 *Federal Register and shall, within a reasonable time there-*
25 *after, hold public hearings at which the Commission shall*

1 *afford interested parties an opportunity to be present, to*
 2 *present evidence, to respond to the presentations of other*
 3 *parties, and otherwise to be heard.*

4 “(c) *MARKET DISRUPTION.*—(1) *For purposes of this*
 5 *section, market disruption exists whenever imports of an*
 6 *article like or directly competitive with an article produced*
 7 *by a domestic industry are increasing rapidly, either abso-*
 8 *lutely or relatively, so as to be a significant cause of mate-*
 9 *rial injury, or threat of material injury, to the domestic*
 10 *industry.*

11 “(2) *For purposes of paragraph (1), the term ‘signifi-*
 12 *cant cause’ refers to a cause which contributes significantly*
 13 *to the material injury of the domestic industry, but need*
 14 *not be equal to or greater than any other cause.*

15 “(d) *FACTORS IN DETERMINATION.*—*In determining*
 16 *whether market disruption exists, the Commission shall con-*
 17 *sider objective factors, including—*

18 “(1) *the volume of imports of the product which*
 19 *is the subject of the investigation;*

20 “(2) *the effect of imports of such product on*
 21 *prices in the United States for like or directly com-*
 22 *petitive articles; and*

23 “(3) *the effect of imports of such product on the*
 24 *domestic industry producing like or directly competi-*
 25 *tive articles.*

1 *The presence or absence of any factor under paragraph (1),*
2 *(2), or (3) is not necessarily dispositive of whether market*
3 *disruption exists.*

4 “(e) *TIME FOR COMMISSION DETERMINATIONS.—The*
5 *Commission shall make and transmit to the President and*
6 *the Trade Representative its determination under sub-*
7 *section (b)(1) at the earliest practicable time, but in no case*
8 *later than 60 days (or 90 days in the case of a petition*
9 *requesting relief under subsection (i)) after the date on*
10 *which the petition is filed, the request or resolution is re-*
11 *ceived, or the motion is adopted, under subsection (b). If*
12 *the Commissioners voting are equally divided with respect*
13 *to its determination, then the determination agreed upon*
14 *by either group of Commissioners may be considered by the*
15 *President and the Trade Representative as the determina-*
16 *tion of the Commission.*

17 “(f) *RECOMMENDATIONS OF COMMISSION ON PRO-*
18 *POSED REMEDIES.—If the Commission makes an affirma-*
19 *tive determination under subsection (b), or a determination*
20 *which the President or the Trade Representative may con-*
21 *sider as affirmative under subsection (e), the Commission*
22 *shall propose the amount of increase in, or imposition of,*
23 *any duty or other import restrictions necessary to prevent*
24 *or remedy the market disruption. Only those members of*
25 *the Commission who agreed to the affirmative determina-*

1 *tion under subsection (b) are eligible to vote on the proposed*
 2 *action to prevent or remedy market disruption. Members*
 3 *of the Commission who did not agree to the affirmative de-*
 4 *termination may submit, in the report required under sub-*
 5 *section (g), separate views regarding what action, if any,*
 6 *should be taken to prevent or remedy market disruption.*

7 “(g) *REPORT BY COMMISSION.—(1) Not later than 20*
 8 *days after a determination under subsection (b) is made,*
 9 *the Commission shall submit a report to the President and*
 10 *the Trade Representative.*

11 “(2) *The Commission shall include in the report re-*
 12 *quired under paragraph (1) the following:*

13 “(A) *The determination made under subsection*
 14 *(b) and an explanation of the basis for the determina-*
 15 *tion.*

16 “(B) *If the determination under subsection (b) is*
 17 *affirmative, or may be considered by the President or*
 18 *the Trade Representative as affirmative under sub-*
 19 *section (e), the recommendations of the Commission*
 20 *on proposed remedies under subsection (f) and an ex-*
 21 *planation of the basis for each recommendation.*

22 “(C) *Any dissenting or separate views by mem-*
 23 *bers of the Commission regarding the determination*
 24 *and any recommendation referred to in subpara-*
 25 *graphs (A) and (B).*

1 “(D) *A description of—*

2 “(i) *the short- and long-term effects that im-*
3 *plementation of the action recommended under*
4 *subsection (f) is likely to have on the petitioning*
5 *domestic industry, on other domestic industries,*
6 *and on consumers; and*

7 “(ii) *the short- and long-term effects of not*
8 *taking the recommended action on the peti-*
9 *tioning domestic industry, its workers, and the*
10 *communities where production facilities of such*
11 *industry are located, and on other domestic in-*
12 *dustries.*

13 “(3) *The Commission, after submitting a report to the*
14 *President under paragraph (1), shall promptly make it*
15 *available to the public (but shall not include confidential*
16 *business information) and cause a summary thereof to be*
17 *published in the Federal Register.*

18 “(h) *OPPORTUNITY TO PRESENT VIEWS AND EVI-*
19 *DENCE ON PROPOSED MEASURE AND RECOMMENDATION TO*
20 *THE PRESIDENT.—(1) Within 20 days after receipt of the*
21 *Commission’s report under subsection (g) (or 15 days in*
22 *the case of an affirmative preliminary determination under*
23 *subsection (i)(1)(B)), the Trade Representative shall publish*
24 *in the Federal Register notice of any measure proposed by*
25 *the Trade Representative to be taken pursuant to subsection*

1 (a) and of the opportunity, including a public hearing, if
2 requested, for importers, exporters, and other interested par-
3 ties to submit their views and evidence on the appropriate-
4 ness of the proposed measure and whether it would be in
5 the public interest.

6 “(2) Within 55 days after receipt of the report under
7 subsection (g) (or 35 days in the case of an affirmative pre-
8 liminary determination under subsection (i)(1)(B)), the
9 Trade Representative, taking into account the views and
10 evidence received under paragraph (1) on the measure pro-
11 posed by the Trade Representative, shall make a rec-
12 ommendation to the President concerning what action, if
13 any, to take to prevent or remedy the market disruption.

14 “(i) *CRITICAL CIRCUMSTANCES*.—(1) When a petition
15 filed under subsection (b) alleges that critical circumstances
16 exist and requests that provisional relief be provided under
17 this subsection with respect to the product identified in the
18 petition, the Commission shall, not later than 45 days after
19 the petition containing the request is filed—

20 “(A) determine whether delay in taking action
21 under this section would cause damage to the relevant
22 domestic industry which would be difficult to repair;
23 and

24 “(B) if the determination under subparagraph
25 (A) is affirmative, make a preliminary determination

1 *of whether imports of the product which is the subject*
2 *of the investigation have caused or threatened to cause*
3 *market disruption.*

4 *If the Commissioners voting are equally divided with re-*
5 *spect to either of its determinations, then the determination*
6 *agreed upon by either group of Commissioners may be con-*
7 *sidered by the President and the Trade Representative as*
8 *the determination of the Commission.*

9 *“(2) On the date on which the Commission completes*
10 *its determinations under paragraph (1), the Commission*
11 *shall transmit a report on the determinations to the Presi-*
12 *dent and the Trade Representative, including the reasons*
13 *for its determinations. If the determinations under para-*
14 *graph (1) are affirmative, or may be considered by the*
15 *President or the Trade Representative as affirmative under*
16 *paragraph (1), the Commission shall include in its report*
17 *its recommendations on proposed provisional measures to*
18 *be taken to prevent or remedy the market disruption. Only*
19 *those members of the Commission who agreed to the affirm-*
20 *ative determinations under paragraph (1) are eligible to*
21 *vote on the proposed provisional measures to prevent or*
22 *remedy market disruption. Members of the Commission who*
23 *did not agree to the affirmative determinations may sub-*
24 *mit, in the report, dissenting or separate views regarding*

1 *the determination and any recommendation of provisional*
2 *measures referred to in this paragraph.*

3 “(3) *If the determinations under paragraph (1) are af-*
4 *firmative, or may be considered by the President or the*
5 *Trade Representative as affirmative under paragraph (1),*
6 *the Trade Representative shall, within 10 days after receipt*
7 *of the Commission’s report, determine the amount or extent*
8 *of provisional relief that is necessary to prevent or remedy*
9 *the market disruption and shall provide a recommendation*
10 *to the President on what provisional measures, if any, to*
11 *take.*

12 “(4)(A) *The President shall determine whether to pro-*
13 *vide provisional relief and proclaim such relief, if any,*
14 *within 10 days after receipt of the recommendation from*
15 *the Trade Representative.*

16 “(B) *Such relief may take the form of—*

17 “(i) *the imposition of or increase in any duty;*

18 “(ii) *any modification, or imposition of any*
19 *quantitative restriction on the importation of an arti-*
20 *cle into the United States; or*

21 “(iii) *any combination of actions under clauses*
22 *(i) and (ii).*

23 “(C) *Any provisional action proclaimed by the Presi-*
24 *dent pursuant to a determination of critical circumstances*
25 *shall remain in effect not more than 200 days.*

1 “(D) *Provisional relief shall cease to apply upon the*
2 *effective date of relief proclaimed under subsection (a), upon*
3 *a decision by the President not to provide such relief, or*
4 *upon a negative determination by the Commission under*
5 *subsection (b).*

6 “(j) *AGREEMENTS WITH THE PEOPLE’S REPUBLIC OF*
7 *CHINA.—(1) The Trade Representative is authorized to*
8 *enter into agreements for the People’s Republic of China*
9 *to take such action as necessary to prevent or remedy mar-*
10 *ket disruption, and should seek to conclude such agreements*
11 *before the expiration of the 60-day consultation period pro-*
12 *vided for under the product-specific safeguard provision of*
13 *the Protocol of Accession of the People’s Republic of China*
14 *to the WTO, which shall commence not later than 5 days*
15 *after the Trade Representative receives an affirmative deter-*
16 *mination provided for in subsection (e) or a determination*
17 *which the Trade Representative considers to be an affirma-*
18 *tive determination pursuant to subsection (e).*

19 “(2) *If no agreement is reached with the People’s Re-*
20 *public of China pursuant to consultations under paragraph*
21 *(1), or if the President determines that an agreement*
22 *reached pursuant to such consultations is not preventing*
23 *or remedying the market disruption at issue, the President*
24 *shall provide import relief in accordance with subsection*
25 *(a).*

1 “(k) *STANDARD FOR PRESIDENTIAL ACTION.*—(1)
2 *Within 15 days after receipt of a recommendation from the*
3 *Trade Representative under subsection (h) on the appro-*
4 *priate action, if any, to take to prevent or remedy the mar-*
5 *ket disruption, the President shall provide import relief for*
6 *such industry pursuant to subsection (a), unless the Presi-*
7 *dent determines that provision of such relief is not in the*
8 *national economic interest of the United States or, in ex-*
9 *traordinary cases, that the taking of action pursuant to sub-*
10 *section (a) would cause serious harm to the national secu-*
11 *urity of the United States.*

12 “(2) *The President may determine under paragraph*
13 *(1) that providing import relief is not in the national eco-*
14 *nomie interest of the United States only if the President*
15 *finds that the taking of such action would have an adverse*
16 *impact on the United States economy clearly greater than*
17 *the benefits of such action.*

18 “(l) *PUBLICATION OF DECISION AND REPORTS.*—(1)
19 *The President’s decision, including the reasons therefor and*
20 *the scope and duration of any action taken, shall be pub-*
21 *lished in the Federal Register.*

22 “(2) *The Commission shall promptly make public any*
23 *report transmitted under this section, but shall not make*
24 *public any information which the Commission determines*

1 *to be confidential, and shall publish notice of such report*
2 *in the Federal Register.*

3 “(m) *EFFECTIVE DATE OF RELIEF.*—*Import relief*
4 *under this section shall take effect not later than 15 days*
5 *after the President’s determination to provide such relief.*

6 “(n) *MODIFICATIONS OF RELIEF.*—(1) *At any time*
7 *after the end of the 6-month period beginning on the date*
8 *on which relief under subsection (m) first takes effect, the*
9 *President may request that the Commission provide a re-*
10 *port on the probable effect of the modification, reduction,*
11 *or termination of the relief provided on the relevant indus-*
12 *try. The Commission shall transmit such report to the*
13 *President within 60 days of the request.*

14 “(2) *The President may, after receiving a report from*
15 *the Commission under paragraph (1), take such action to*
16 *modify, reduce, or terminate relief that the President deter-*
17 *mines is necessary to continue to prevent or remedy the*
18 *market disruption at issue.*

19 “(3) *Upon the granting of relief under subsection (k),*
20 *the Commission shall collect such data as is necessary to*
21 *allow it to respond rapidly to a request by the President*
22 *under paragraph (1).*

23 “(o) *EXTENSION OF ACTION.*—(1) *Upon request of the*
24 *President, or upon petition on behalf of the industry con-*
25 *cerned filed with the Commission not earlier than the date*

1 *which is 9 months, and not later than the date which is*
 2 *6 months, before the date any relief provided under sub-*
 3 *section (k) is to terminate, the Commission shall investigate*
 4 *to determine whether action under this section continues to*
 5 *be necessary to prevent or remedy market disruption.*

6 “(2) *The Commission shall publish notice of the com-*
 7 *mencement of any proceeding under this subsection in the*
 8 *Federal Register and shall, within a reasonable time there-*
 9 *after, hold a public hearing at which the Commission shall*
 10 *afford interested parties and consumers an opportunity to*
 11 *be present, to present evidence, and to respond to the presen-*
 12 *tations of other parties and consumers, and otherwise to*
 13 *be heard.*

14 “(3) *The Commission shall transmit to the President*
 15 *a report on its investigation and determination under this*
 16 *subsection not later than 60 days before the action under*
 17 *subsection (m) is to terminate.*

18 “(4) *The President, after receiving an affirmative de-*
 19 *termination from the Commission under paragraph (3),*
 20 *may extend the effective period of any action under this*
 21 *section if the President determines that the action continues*
 22 *to be necessary to prevent or remedy the market disruption.*

23 **“SEC. 422. ACTION IN RESPONSE TO TRADE DIVERSION.**

24 “(a) *MONITORING BY CUSTOMS SERVICE.—In any*
 25 *case in which a WTO member other than the United States*

1 *requests consultations with the People’s Republic of China*
2 *under the product-specific safeguard provision of the Pro-*
3 *TOCOL of Accession of the People’s Republic of China to the*
4 *World Trade Organization, the Trade Representative shall*
5 *inform the United States Customs Service, which shall mon-*
6 *itor imports into the United States of those products of Chi-*
7 *nese origin that are the subject of the consultation request.*
8 *Data from such monitoring shall promptly be made avail-*
9 *able to the Commission upon request by the Commission.*

10 “(b) *INITIATION OF INVESTIGATION.—(1) Upon the fil-*
11 *ing of a petition by an entity described in section 202(a)*
12 *of the Trade Act of 1974, upon the request of the President*
13 *or the Trade Representative, upon resolution of either of*
14 *the Committees, or on its own motion, the Commission shall*
15 *promptly make an investigation to determine whether an*
16 *action described in subsection (c) has caused, or threatens*
17 *to cause, a significant diversion of trade into the domestic*
18 *market of the United States.*

19 “(2) *The Commission shall publish notice of the com-*
20 *mencement of any proceeding under this subsection in the*
21 *Federal Register and shall, within a reasonable time there-*
22 *after, hold public hearings at which the Commission shall*
23 *afford interested parties an opportunity to be present, to*
24 *present evidence, to respond to the presentations of other*
25 *parties, and otherwise to be heard.*

1 “(3) *The provisions of subsections (a)(8) and (i) of sec-*
 2 *tion 202 of the Trade Act of 1974 (19 U.S.C. 2252(a)(8)*
 3 *and (i)), relating to treatment of confidential business in-*
 4 *formation, shall apply to investigations conducted under*
 5 *this section.*

6 “(c) *ACTIONS DESCRIBED.—An action is described in*
 7 *this subsection if it is an action—*

8 “(1) *by the People’s Republic of China to prevent*
 9 *or remedy market disruption in a WTO member other*
 10 *than the United States;*

11 “(2) *by a WTO member other than the United*
 12 *States to withdraw concessions under the WTO Agree-*
 13 *ment or otherwise to limit imports to prevent or rem-*
 14 *edy market disruption;*

15 “(3) *by a WTO member other than the United*
 16 *States to apply a provisional safeguard within the*
 17 *meaning of the product-specific safeguard provision of*
 18 *the Protocol of Accession of the People’s Republic of*
 19 *China to the WTO; or*

20 “(4) *any combination of actions described in*
 21 *paragraphs (1) through (3).*

22 “(d) *BASIS FOR DETERMINATION OF SIGNIFICANT DI-*
 23 *VERSION.—(1) In determining whether significant diver-*
 24 *sion or the threat thereof exists for purposes of this section,*

1 *the Commission shall take into account, to the extent such*
2 *evidence is reasonably available—*

3 “(A) *the monitoring conducted under subsection*
4 *(a);*

5 “(B) *the actual or imminent increase in United*
6 *States market share held by such imports from the*
7 *People’s Republic of China;*

8 “(C) *the actual or imminent increase in volume*
9 *of such imports into the United States;*

10 “(D) *the nature and extent of the action taken*
11 *or proposed by the WTO member concerned;*

12 “(E) *the extent of exports from the People’s Re-*
13 *public of China to that WTO member and to the*
14 *United States;*

15 “(F) *the actual or imminent changes in exports*
16 *to that WTO member due to the action taken or pro-*
17 *posed;*

18 “(G) *the actual or imminent diversion of exports*
19 *from the People’s Republic of China to countries other*
20 *than the United States;*

21 “(H) *cyclical or seasonal trends in import vol-*
22 *umes into the United States of the products at issue;*
23 *and*

24 “(I) *conditions of demand and supply in the*
25 *United States market for the products at issue.*

1 *The presence or absence of any factor under any of subpara-*
2 *graphs (A) through (I) is not necessarily dispositive of*
3 *whether a significant diversion of trade or the threat thereof*
4 *exists.*

5 “(2) *For purposes of making its determination, the*
6 *Commission shall examine changes in imports into the*
7 *United States from the People’s Republic of China since the*
8 *time that the WTO member commenced the investigation*
9 *that led to a request for consultations described in sub-*
10 *section (a).*

11 “(3) *If more than 1 action by a WTO member or WTO*
12 *members against a particular product is identified in the*
13 *petition, request, or resolution under subsection (b) or dur-*
14 *ing the investigation, the Commission may cumulatively as-*
15 *sess the actual or likely effects of such actions jointly in*
16 *determining whether a significant diversion of trade or*
17 *threat thereof exists.*

18 “(e) *COMMISSION DETERMINATION; AGREEMENT AU-*
19 *THORITY.—(1) The Commission shall make and transmit*
20 *to the President and the Trade Representative its deter-*
21 *mination under subsection (b) at the earliest practicable*
22 *time, but in no case later than 45 days after the date on*
23 *which the petition is filed, the request or resolution is re-*
24 *ceived, or the motion is adopted, under subsection (b). If*
25 *the Commissioners voting are equally divided with respect*

1 *to its determination, then the determination agreed upon*
2 *by either group of Commissioners may be considered by the*
3 *President and the Trade Representative as the determina-*
4 *tion of the Commission.*

5 “(2) *The Trade Representative is authorized to enter*
6 *into agreements with the People’s Republic of China or the*
7 *other WTO members concerned to take such action as nec-*
8 *essary to prevent or remedy significant trade diversion or*
9 *threat thereof into the domestic market of the United States,*
10 *and should seek to conclude such agreements before the expi-*
11 *ration of the 60-day consultation period provided for under*
12 *the product-specific safeguard provision of the Protocol of*
13 *Accession of the People’s Republic of China to the WTO,*
14 *which shall commence not later than 5 days after the Trade*
15 *Representative receives an affirmative determination pro-*
16 *vided for in paragraph (1) or a determination which the*
17 *Trade Representative considers to be an affirmative deter-*
18 *mination pursuant to paragraph (1).*

19 “(3) *REPORT BY COMMISSION.—*

20 “(A) *Not later than 10 days after a determina-*
21 *tion under subsection (b) is made, the Commission*
22 *shall transmit a report to the President and the*
23 *Trade Representative.*

24 “(B) *The Commission shall include in the report*
25 *required under subparagraph (A) the following:*

1 “(i) *The determination made under sub-*
2 *section (b) and an explanation of the basis for*
3 *the determination.*

4 “(ii) *If the determination under subsection*
5 *(b) is affirmative, or may be considered by the*
6 *President or the Trade Representative as affirm-*
7 *ative under subsection (e)(1), the recommenda-*
8 *tions of the Commission on increased tariffs or*
9 *other import restrictions to be imposed to pre-*
10 *vent or remedy the trade diversion or threat*
11 *thereof, and explanations of the bases for such*
12 *recommendations. Only those members of the*
13 *Commission who agreed to the affirmative deter-*
14 *mination under subsection (b) are eligible to vote*
15 *on the proposed action to prevent or remedy the*
16 *trade diversion or threat thereof.*

17 “(iii) *Any dissenting or separate views by*
18 *members of the Commission regarding the deter-*
19 *mination and any recommendation referred to*
20 *in clauses (i) and (ii).*

21 “(iv) *A description of—*

22 “(I) *the short- and long-term effects*
23 *that implementation of the action rec-*
24 *ommended under clause (ii) is likely to have*
25 *on the petitioning domestic industry, on*

1 *other domestic industries, and on con-*
2 *sumers; and*

3 *“(II) the short- and long-term effects of*
4 *not taking the recommended action on the*
5 *petitioning domestic industry, its workers*
6 *and the communities where production fa-*
7 *cilities of such industry are located, and on*
8 *other domestic industries.*

9 *“(C) The Commission, after submitting a report*
10 *to the President under subparagraph (A), shall*
11 *promptly make it available to the public (with the ex-*
12 *ception of confidential business information) and*
13 *cause a summary thereof to be published in the Fed-*
14 *eral Register.*

15 *“(f) PUBLIC COMMENT.—If consultations fail to lead*
16 *to an agreement with the People’s Republic of China or the*
17 *WTO member concerned within 60 days, the Trade Rep-*
18 *resentative shall promptly publish notice in the Federal*
19 *Register of any proposed action to prevent or remedy the*
20 *trade diversion, and provide an opportunity for interested*
21 *persons to present views and evidence on whether the pro-*
22 *posed action is in the public interest.*

23 *“(g) RECOMMENDATION TO THE PRESIDENT.—Within*
24 *20 days after the end of consultations pursuant to sub-*
25 *section (e), the Trade Representative shall make a rec-*

1 *ommendation to the President on what action, if any,*
2 *should be taken to prevent or remedy the trade diversion*
3 *or threat thereof.*

4 “(h) *PRESIDENTIAL ACTION.*—*Within 20 days after*
5 *receipt of the recommendation from the Trade Representa-*
6 *tive, the President shall determine what action to take to*
7 *prevent or remedy the trade diversion or threat thereof.*

8 “(i) *DURATION OF ACTION.*—*Action taken under sub-*
9 *section (h) shall be terminated not later than 30 days after*
10 *expiration of the action taken by the WTO member or mem-*
11 *bers involved against imports from the People’s Republic*
12 *of China.*

13 “(j) *REVIEW OF CIRCUMSTANCES.*—(1) *The Commis-*
14 *sion shall review the continued need for action taken under*
15 *subsection (h) if the WTO member or members involved no-*
16 *tify the Committee on Safeguards of the WTO of any modi-*
17 *fication in the action taken by them against the People’s*
18 *Republic of China pursuant to consultation referred to in*
19 *subsection (a). The Commission shall, not later than 60*
20 *days after such notification, determine whether a signifi-*
21 *cant diversion of trade continues to exist and report its de-*
22 *termination to the President. The President shall determine,*
23 *within 15 days after receiving the Commission’s report,*
24 *whether to modify, withdraw, or keep in place the action*
25 *taken under subsection (h).*

1 **“SEC. 423. REGULATIONS; TERMINATION OF PROVISION.**

2 “(a) *TO CARRY OUT RESTRICTIONS AND MONI-*
 3 *TORING.*—*The President shall by regulation provide for the*
 4 *efficient and fair administration of any restriction pro-*
 5 *claimed pursuant to the subtitle and to provide for effective*
 6 *monitoring of imports under section 422(a).*

7 “(b) *TO CARRY OUT AGREEMENTS.*—*To carry out an*
 8 *agreement concluded pursuant to consultations under sec-*
 9 *tion 421(j) or 422(e)(2), the President is authorized to pre-*
 10 *scribe regulations governing the entry or withdrawal from*
 11 *warehouse of articles covered by such agreement.*

12 “(c) *TERMINATION DATE.*—*This subtitle and any reg-*
 13 *ulations issued under this subtitle shall cease to be effective*
 14 *12 years after the date of entry into force of the Protocol*
 15 *of Accession of the People’s Republic of China to the WTO.”.*

16 (b) *CONFORMING AMENDMENT.*—*The table on contents*
 17 *of the Trade Act of 1974 is amended—*

18 (1) *in the item relating to title IV, by striking*

19 “*CURRENTLY*”;

20 (2) *by inserting before the item relating to sec-*
 21 *tion 401 the following:*

“CHAPTER 1—TRADE RELATIONS WITH CERTAIN COUNTRIES”; and

22 (3) *by adding after the item relating to section*
 23 *409 the following:*

*“CHAPTER 2—RELIEF FROM MARKET DISRUPTION TO INDUSTRIES AND
 DIVERSION OF TRADE TO THE UNITED STATES MARKET*

“Sec. 421. Action to address market disruption.

“Sec. 422. Action in response to trade diversion.

“Sec. 423. Regulations; termination of provision.”.

1 **SEC. 4. AMENDMENT TO SECTION 123 OF THE TRADE ACT**
2 **OF 1974—COMPENSATION AUTHORITY.**

3 *Section 123(a)(1) of the Trade Act of 1974 (19 U.S.C.*
4 *2133(a)(1)) is amended by inserting after “title III” the*
5 *following; “, or under chapter 2 of title IV of the Trade*
6 *Act of 1974”.*

Union Calendar No. 347

106TH CONGRESS
2D SESSION

H. R. 4444

[Report No. 106–632]

A BILL

To authorize extension of nondiscriminatory treatment (normal trade relations treatment) to the People's Republic of China.

MAY 22, 2000

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed